

Date Mailed June 29, 2001

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Joint Application of Minnesota Power Company and
Wisconsin Public Service Corporation for Authority to
Construct and Place in Service Electric Transmission Lines
and Other Electric Facilities for the Arrowhead-Weston Project,
Located in St. Louis County in Minnesota, and Chippewa, Clark,
Douglas, Lincoln, Marathon, Oneida, Price, Rusk, Sawyer, Taylor,
and Washburn Counties in Wisconsin

05-CE-113

ORDER

On April 13, 2001, American Transmission Company LLC and ATC Management Inc. (collectively, "ATC") filed a motion for a status change in this docket.¹ On May 30, 2000, ATC had become a party of record; with this motion, it now seeks permission to become an applicant that would co-sponsor the transmission project. The original project applicants, Wisconsin Public Service Corporation (WPSC) and Minnesota Power (MP), support the motion of ATC but a number of citizen intervenors, including the organization Save Our Unique Lands (SOUL), oppose the motion.

WPSC and MP initiated this project by filing an application for a Certificate of Public Convenience and Necessity (CPCN) on November 10, 1999, seeking the Commission's approval of a 345 kV transmission line that would extend from Duluth, Minnesota to Wausau, Wisconsin, a 115 kV transmission line between Rhinelander and Tripoli, Wisconsin, and other associated facilities. Discovery closed one year later on November 1, 2000, and the Commission

¹ ATC is a transmission company, as defined in Wis. Stat. § 196.485(1)(ge).

commenced its public hearings on the project on November 28, 2000. The Commission completed a total of 39 days of hearings in this matter and ultimately closed the record on February 23, 2001.

Throughout the course of these hearings it has been clear that ATC would become the owner of most or all of this transmission project, should it be approved by the Commission. Testimony in the record indicates that WPSC has the option to sell its share of the project to ATC, and expects to do so if the Commission issues a CPCN. Furthermore, under Wis. Stat. § 196.485(5)(a)3. and (b)5., ATC must become the owner of all transmission projects that WPSC initiates or acquires. The only real question has been when this might occur, not whether it would happen at all. ATC represents that approving its motion will avoid the need to address the transfer of any CPCN that may be issued, or of project facilities that WPSC and MP may construct, in a future proceeding. ATC also states that it is willing to be bound by any conditions, commitments, or agreements made by WPSC or MP in the Commission's proceedings.

Because ATC's ultimate ownership of the project is prescribed by statute, the concerns of those opposing this motion are misdirected. Any questions about the adequacy of ATC as a project owner could have been raised during discovery or during cross-examination of ATC's witnesses. Although the Commission did not approve the formation of ATC until the end of 2000, after the discovery period had been completed, ATC's application was filed with the Commission while discovery was still ongoing and this application made clear WPSC's involvement in the transmission company. For this reason, all parties had sufficient notice that ATC would eventually become the principal owner of this project.

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After considering this matter at the Commission's June 19, 2001, open meeting, ATC's motion to change its status in this docket, from party to applicant, is APPROVED. As a co-applicant, ATC is bound by all conditions, commitments, and agreements made by WPSC or MP in the course of the Commission's proceedings.

Dissent

Commissioner Mettner dissents, on the grounds that approving this change of ATC's status is not necessary to complete the Commission's consideration of the project application.

Dated at Madison, Wisconsin, _____

By the Commission:

Lynda L. Dorr
Secretary to the Commission

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See attached Notice of Appeal Rights

Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in Wis. Stat. § 227.01(3), a person aggrieved by the order has the further right to file one petition for rehearing as provided in Wis. Stat. § 227.49. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Revised 9/28/98